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September 4, 2007

Paul E. Davis
Director, Division of Water Pollution Control
Tennessee Department of Environment & Conservation
6th Floor, L & C Annex
401 Church St.
Nashville, TN 37243

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TN Division Of Water
Pollution Control

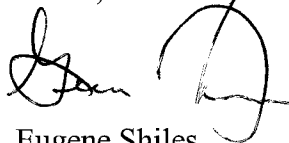
RE: Director's Order and Assessment - Frim Island, LLC, Tim Shumaker and
Ronnie Dillard; Case No. WPC 07-0122

Dear Mr. Davis:

Pursuant to T.C.A. §§ 69-3-109 and 69-3-115, enclosed is the written petition for review of
the order and assessment on behalf of the above respondents.

Sincerely,

SPEARS, MOORE, REBMAN & WILLIAMS, PC



C. Eugene Shiles

CES/mtd

Enclosed: Petition

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Tim Shumaker
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c/o Randy Wells
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Ronnie Dillard
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**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

IN THE MATTER OF:

FRIM ISLAND, LLC, TIM SHUMAKER
and RONNIE DILLARD

RESPONDENTS

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*

DIVISION OF WATER
POLLUTION CONTROL

CASE NO. WPC 07-0122

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TN Division Of Water
Pollution Control

PETITION FOR HEARING BEFORE THE WATER QUALITY CONTROL BOARD

Come the respondents, Frim Island, LLC, Tim Shumaker and Ronnie Dillard (hereinafter "respondents"), and for their petition for hearing before the Water Quality Control Board, state as follows:

Parties

1. Respondents admit the accuracy of the description of the parties found in paragraphs I through IV of the director's order, except that respondent Dillard neither admits nor denies the legal conclusion that he is "an operator" at the site. Dillard does admit that he has engaged in certain construction activities on the site, some of which are the subject of the director's order.

Jurisdiction

2. Respondents admit the accuracy of the statement of law found in paragraph V of the director's order.

3. Respondents admit the accuracy of the allegations found in paragraph VI of the director's order.

4. Respondents do not dispute the general recitation of law found in paragraph VII of the director's order.

5. On information and belief, Brush Creek is a water of the state; however, respondents are without sufficient information to either admit or deny whether the "unnamed tributaries" are

waters of the state as defined by state law. Therefore, respondents are unable to admit or deny whether the indicated uses found in paragraphs VIII of the director's order are applicable.

Facts

6. Respondents admit that on April 26, 2007, TDEC conducted an investigation of the site in question. Respondents further admit that certain construction activities, including the construction of a minor road and one impoundment (not two), had been or were in the process of being constructed. Respondents are without sufficient information to either admit or deny the allegations regarding erosion, the sufficiency of the erosion measures and/or loss of stream flow as alleged in paragraph IX, and therefore, must deny the same.

7. Respondents generally admit the allegations found in paragraphs X, XI and XII of the director's order, though the respondents were not advised as to specific EPSC measures to take on the site.

8. As to paragraph XIII, respondents admit that division personnel returned to the site on June 6 and 14, 2007. Respondents are without sufficient information to either admit or deny the findings and/or impressions of said personnel.

9. As to paragraph XIV, respondents admit that an NOI and SWPPP were submitted to the division as described and that said applications were denied.

10. As to paragraph XV, respondents admit that the ARAP application and fee submitted by respondent Shumaker were returned to him.

11. As to paragraph XVI, respondents are without sufficient information to either admit or deny the damage alleged therein.

Violations

12. The particular conduct of which the division complains in paragraph XVII of the director's order is not described and therefore, respondents respectfully must deny the alleged violations of state law.

13. Respondents are without sufficient information to admit or deny that the "unnamed tributary" is "waters of the state" and therefore jurisdiction is at issue. Respondents further deny the various alterations to the "waters" as alleged in paragraph XVIII.

14. Respondents are without sufficient information to admit or deny that the tributary in question is "waters of the state" and therefore must deny the alleged violations.

15. Respondents are without sufficient information to either admit or deny whether adequate EPSC measures were installed at the site and therefore must deny the allegation found in paragraph XX of the director's order.

16. Respondents deny the allegations found in paragraph XXI of the director's order.

17. Any allegations found within the director's order and not otherwise answered above are hereby denied.

Order and Assessment

18. Respondents deny that the order and assessment in all its parts is justified or proper under the present law and therefore deny its applicability. In the alternative, respondents state that the proposed penalties and corrective actions are punitive in nature and disproportionate to any violations for which respondents are responsible.

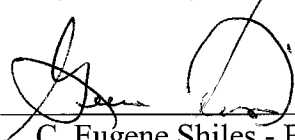
Additional Defenses

19. Respondents are without sufficient information to either admit or deny the division's allegations regarding which physical features are "waters of the state." Therefore, respondents must deny said allegations and must also deny the jurisdiction over all matters concerning those features.

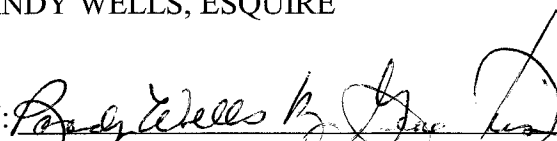
Remedy Sought

20. Pursuant to T.C.A. §§69-3-109 and 69-3-115, respondents hereby petition the Water Quality Control Board for a hearing and review of this order and agreement.

SPEARS, MOORE, REBMAN & WILLIAMS, PC

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